

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

NICOLE M. PAULK,

Plaintiff,

v.

SOCIAL SECURITY ADMINISTRATION,
et al.,

Defendants.

**REPORT AND
RECOMMENDATION**

Case No. 1:24-cv-63-JLS-JJM

This case has been referred to me by District Judge John L. Sinatra, Jr. for supervision of pretrial proceedings. [10]. During a teleconference earlier today, plaintiff's counsel indicated that plaintiff has decided to voluntarily withdraw this case. [17]¹. Defendants had no objection to a dismissal of plaintiff's complaint without prejudice. *Id.* Under Fed. R. Civ. P. 41(a)(2), an action may be dismissed at plaintiff's request by court order.

For the reasons set forth above, I recommend that the Complaint [1] be dismissed without prejudice. Unless otherwise ordered by District Judge Sinatra, any objections to this Report and Recommendation must be filed with the clerk of this court by May 1, 2025. Any requests for extension of this deadline must be made to Judge Sinatra. A party who "fails to object timely . . . waives any right to further judicial review of [this] decision". Wesolek v. Canadair Ltd., 838 F.2d 55, 58 (2d Cir. 1988); Thomas v. Arn, 474 U.S. 140, 155 (1985).

Moreover, the district judge will ordinarily refuse to consider *de novo* arguments, case law and/or evidentiary material which could have been, but were not, presented to the

¹ Bracketed references are to CM/ECF docket entries, and page references are to CM/ECF pagination.

magistrate judge in the first instance. Patterson-Leitch Co. v. Massachusetts Municipal Wholesale Electric Co., 840 F. 2d 985, 990-91 (1st Cir. 1988).

The parties are reminded that, pursuant to Rule 72(b) and (c) of this Court's Local Rules of Civil Procedure, written objections shall "specifically identify the portions of the proposed findings and recommendations to which objection is made and the basis for each objection . . . supported by legal authority", and must include "a written statement either certifying that the objections do not raise new legal/factual arguments, or identifying the new arguments and explaining why they were not raised to the Magistrate Judge". Failure to comply with these provisions may result in the district judge's refusal to consider the objections.

Dated: April 17, 2025

/s/ Jeremiah J. McCarthy
JEREMIAH J. MCCARTHY
United States Magistrate Judge